

4446. Misbranding of "Virogeno." U. S. v. Giustino Sallusto (G. Sallusto & Co.). Plea of guilty. Fine, \$50. (F. & D. No. 6426. I. S. No. 4762-e.)

On November 3, 1915, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Giustino Sallusto, trading as G. Sallusto & Co., New York, N. Y., alleging the sale by said defendant, in violation of the Food and Drugs Act, as amended, on May 28, 1913, under a guaranty that the article of drugs was not adulterated or misbranded within the meaning of said Food and Drugs Act, of a quantity of "Virogeno," which was a misbranded article within the meaning of said act as amended, and which said article was shipped by the purchaser thereof, on or about May 29, 1913, in the identical condition in which received from the defendant, and transported from the State of New York into the State of Pennsylvania, in further violation of said act as amended. The article was labeled: (On bottle) "Virogeno Il piu' potente Ricostituente Rigeneratore del Sangue e del Sistema Nervoso A Base di Glicerofosfato Ferro Calcio Arsen. Chinina Stricn.; ecc. (Cuts of medals and badges) Le massime onorificenze ottenute In tutte le Principali Esposizioni del Mondo Preparazione Medicinale Ricettata dal Prof. Domenico Avena di Napoli Efficacissimo per: Anemia—Esaurimento—Debolezza generale—Neurastenia—Rachitide—Inappetenza—Malattie dello Stomaco—Dolori di Testa—Impotenza—ecc. ecc. Dosi: Per gli adulti un cucchiaino da zuppa tre volte al giorno, per gli adolescenti un cucchiaino da zuppa due volte al giorno; per i bambini due cucchiaini da caffè al giorno, sempre prima dei pasti. (Cut of lion with pestle and mortar) In vendita presso tutte le buone Farmacie del Mondo, all' ingrosso presso: Gli Unici Agenti Concessionari, Rappresentanti la Ditta Produttiva in New York Ditta G. Sallusto & Co. Prezzo: Un Dollaro la Bottiglia." (Back of bottle) "Virogeno the best tonic for the Blood and Nervous System Special Prescription of the Prof. Domenico Avena Naples (Italy) Contain only 10% alcohol. Prepared by G. Sallusto & Co. Representing in New York of the Ditta P. Stefanile & Co. of Naples (Italy) Guaranteed by G. Sallusto & Co. under the pure food and drugs' Act, June 30—1906. Serial No. 18726." (Blown in bottom of bottle) "Napoli." (On carton) "Virogeno Il piu' potente Ricostituente Rigeneratore del Sangue e del Sistema Nervoso A Base di Glicerofosfato Ferro Calcio Arsen. Chinina Stricn.; ecc. (Cut of medals and badges) Le Massime onorificenze ottenute in tutte le Principali Esposizioni del Mondo Brevettata Preparazione Medicinale Ricettata fin dal 1880 dal Prof. Domenico Avena di Napoli Efficacissimo per: Anemia—Esaurimento—Debolezza generale—Neurastenia—Rachitide—Inappetenza—Malattie dello stomaco—Dolori di Testa—Impotenza, ecc. ecc. Dosi: Per gli adulti un cucchiaino da zuppa tre volte al giorno, per gli adolescenti un cucchiaino da zuppa due volte al giorno; per i bambini due cucchiaini da caffè al giorno, sempre prima dei pasti. (Cut of lion with pestle and mortar) In vendita presso tutte le buone Farmacie del Mondo. All ingrosso presso: Gli Unici Agenti Concessionari, Rappresentanti le Ditta Produttiva in New York Ditta G. Sallusto & Co. Prezzo Un Dollaro la Bottiglia. Reg. U. S. Pat. Off." (Sticker below main label) "Prezzo—Un Dollaro la Bottiglia. In vendita presso tutte le buone farmacie degli Stati Uniti d presso la Ditta R. M. Gigante, 155 Prince St., New York." (On back of carton, English label) "Virogeno The best tonic for the blood and nervous system Special Prescription of the Prof. Domenico Avena Naples (Italy) Contain only 10% alcohol. Prepared by G. Sallusto & Co. Representing In New York of the Ditta P. Stefanile & Co. of Naples (Italy) Guaranteed by G. Sallusto & Co. under the pure food and drugs' Act. June 30, 1906. Serial No. 18726." (On one side, red seal with words) "Virogeno Prof. Domenico Avena" (and cut of lion with mortar and pestle.)

(On other side, red seal with words) "Virogeno Prof. Domenico Avena" (and cut of lion with mortar and pestle.) The booklet accompanying the article contained, among other things, the following: "Virogeno ha risposto oltre l'aspettativa ed ha dato risultati certi di guarigione in tutte le forme di esaurimento, anemia semplice e nervosa, debolezza di ogni genere, neurastenia, scrofola, rachitismo, impotenza virile, spermatorrea, malattie spinali, emicrania, malattie di stomaco, reumatismi, ecc.," "Durata Della Cura.—Bisogna essere costanti nella cura del Virogeno, altrimenti val meglio non cominciarla, se si desiderano i benefici effetti del rimedio. Generalmente varia a secondo dei casi piu o meno gravi, per i quali l'uomo si sottopone a tale trattamento curativo, ma con l'uso di almeno sei bottiglie si ottiene un effetto sicuro e permanente." (Translation) "Virogeno has answered beyond expectation and has given positive results of recovery in all forms of exhaustion, anemia, simple and nervous, debility of every kind, neurasthenia, scrofula, rickets, manly impotence, spermatorrhea, spinal diseases, hemicrania, stomach troubles, rheumatism, etc.," "Length of treatment. It is necessary to be constant in the treatment of Virogeno, otherwise it is better not to begin it, if you desire beneficial results from the remedy. Generally it varies as the case is more or less severe according to the needs of the patient who undertakes the treatment, but with the use of at least 6 bottles a secure and permanent cure is effected."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results, expressed as grams per 100 cc, except as otherwise stated.

Alcohol (per cent by volume)	4.16
Solids	24.53
Sucrose	4.15
Reducing sugars, before inversion	17.76
Reducing sugars, after inversion	22.13
Ash	0.61
Ash insoluble in water	0.59
Iron (Fe_2O_3)	0.10
Calcium (CaO)	0.10
Phosphoric acid (P_2O_5)	0.33
Arsenic (As_2O_3)	0.006
Quinine	0.15
Strychnine	0.01
Test for nitrates: Positive.	

Misbranding of the article was alleged in the information for the reason that the following statements regarding the therapeutic or curative effects thereof, appearing in the booklet aforesaid, to wit, "Virogeno ha risposto oltre l'aspettativa ed ha dato risultati certi di guarigione in tutte le forme di esaurimento, * * * debolezza di ogni genere, neurastenia, scrofola, * * * impotenza, * * * spermatorrea, * * * reumatismi * * *," "Con L'uso di almeno sei bottiglie si ottiene un effetto sicuro e permanente." (Translation) "Virogeno has answered beyond expectation and has given positive results of recovery in all forms of exhaustion, * * * debility of every kind, neurasthenia, scrofula, * * * impotence, spermatorrhea, * * * rheumatism, * * *," "With the use of at least 6 bottles a secure and permanent cure is effected," were false and fraudulent in that the same were applied to the article knowingly, and in reckless and wanton disregard of their truth or falsity, so as to represent falsely and fraudulently to the purchasers thereof, and create in the minds of purchasers thereof the impression and belief, that

it was, in whole or in part, composed of, or contained, ingredients or medicinal agents effective, among other things, as a cure for all the forms of exhaustion, for debility of every kind, for neurasthenia, scrofula, and impotence, and for spermatorrhea and rheumatism, when, in truth and in fact, it was not, in whole or in part, composed of, and did not contain, such ingredients or medicinal agents. Misbranding was alleged for the further reason that the statements, to wit, (In Italian on carton and bottle) "Virogeno * * * The greatest honors obtained in all the principal expositions of the world brevetted medicinal preparations received at the close of 1880 from Prof. Domenico Avena of Naples. * * * The only commissioned agents, representing the said product in New York. The said G. Sallusto & Co. * * *" (Blown in bottom of bottle) "Napoli," regarding the article and the ingredients or substances contained therein were false and misleading in that they indicated that the article was of foreign origin, to wit, a product of Italy, whereas, in truth and in fact, it was not, but was an article of domestic origin, manufactured in the United States of America. Misbranding was alleged for the further reason that the statement, to wit, "10% alcohol," borne on the label attached to the bottle and on the carton, was false and misleading in that it indicated that the article contained 10 per cent alcohol, whereas, in truth and in fact, it did not, but contained a less amount, to wit, 4.16 per cent alcohol.

On November 8, 1915, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$50.

CARL VROOMAN, *Acting Secretary of Agriculture.*